

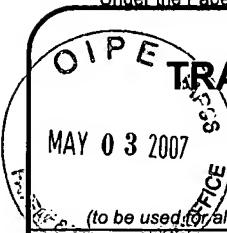
05-04-07

PTO/SB/21 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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 <b>TRANSMITTAL FORM</b> MAY 03 2007 <small>(to be used for all correspondence after initial filing)</small>		Application Number	10/729,330
		Filing Date	12/04/2003
		First Named Inventor	Cameron A. Riddell
		Art Unit	3643
		Examiner Name	Kurt Rowan
Total Number of Pages in This Submission	3	Attorney Docket Number	999205-100025

<b>ENCLOSURES (Check all that apply)</b>		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <input type="checkbox"/> Acknowledgement of Receipt Postcard
Remarks		

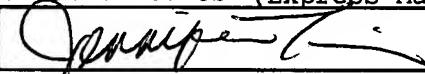
**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	JONES DAY		
Signature			
Printed name	ROBERT W. DICKERSON		
Date	MAY 3, 2007	Reg. No.	29,914

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/729,330 )  
Applicant: Cameron A. Riddell )  
Filed: 12/04/2003 )  
TC/A.U.: 3643 )  
Examiner: Rowan, Kurt C. )  
Docket No. 999205-100025 )  
Customer No. 34026 )  
)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUPPLEMENT TO PROPOSED AMENDMENT AFTER FINAL**

Sir:

Applicant wishes to bring to the Examiner's attention that on April 30, 2007, the Supreme Court, in *KSR Int'l Co. v. Teleflex, Inc.* (Slip Opinion), abrogated the Federal Circuit's "teaching, suggestion, motivation" test (the TSM Test) as being a rigid, *sine qua non*, test for determining obviousness. That recent Supreme court decision has no effect on the patentability of the claims now at issue here because: 1) the present invention is patentable over the prior art of record for the reasons stated in the pending Proposed Amendment After Final, which does not rely on any lack of "teaching, suggestion, motivation" in order to show non-obviousness of the present invention over the prior art; 2) the *KSR* decision indicated that while the TSM Test is not a *sine qua non* requirement for determining obviousness, it is still a factor (and here, there is no such teaching, suggestion or motivation, which while no longer conclusive, is still a factor suggesting that the invention is not obvious; and 3) the *KSR* decision reiterated that secondary

considerations such as need, unsuccessful efforts or copying, remain strong indicia of non-obviousness, and as noted before, such evidence is now in the record.

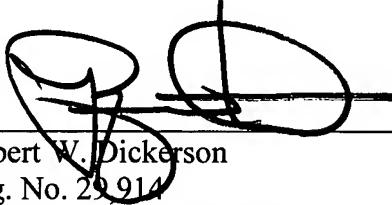
Applicant respectfully and earnestly requests that a Notice of Allowance be issued as to all claims in the Listing of Claim in the pending Proposed Amendment after Final.

Dated: May 3, 2007

Respectfully submitted,

JONES DAY

By: \_\_\_\_\_

  
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